

Executive Secretary
7-7685

JAN 9 1956

MEMORANDUM FOR: The Executive Secretary of the
National Security Council

SUBJECT: Proposed Legislation to Establish a
Joint Committee on Foreign Intelligence

REFERENCE: Memorandum for the Director of Central
Intelligence from the Executive Secretary
of the National Security Council on the
subject dated October 7, 1955.

This memorandum is submitted in compliance with the request in reference memorandum that the Director of Central Intelligence submit to the National Security Council for consideration a report containing (a) an analysis of the proposed legislation to establish a Joint Committee on Foreign Intelligence, and (b) recommendations as to an Administration position.

I.

Analysis of Proposed Legislation.

A large number of resolutions were introduced in the Senate and the House during the last session of Congress, all of which proposed the establishment of a Joint Congressional Committee on Foreign Intelligence. Certain of these bills referred to a Joint Committee "on Central Intelligence", but the purposes and functions remain substantially the same.

Two basic resolutions were introduced in the Senate. One of these (S. 2614) was introduced on July 22, 1955 by Senator Smith of New Jersey. This bill (Annex 1) was referred to the Committee on Foreign Relations, the Chairman of which, Senator George, requested the views of the Central Intelligence Agency. These views were submitted to Senator George in a

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letter from the Director dated August 18, 1955 (Annex 2). Senator Smith had introduced this bill in keeping with a general practice he has followed for introducing legislation to carry out the various recommendations of the Hoover Commission, and the Senator indicated to the Director that he had not committed himself as to the subject matter of the proposed legislation.

A further bill was S. Con. Res. 2 (Annex 3), which was introduced on January 14, 1955 by Senator Mansfield. This resolution was introduced not only for Senator Mansfield himself, but on behalf of 32 other Senators as well, including 6 members of the Senate Foreign Relations Committee and its Chairman, Senator George, and members of Senate Armed Services and Appropriations Committees as well. Two other Senators added their names to this resolution after its initial introduction by Senator Mansfield, bringing the total of co-signers of the Mansfield Resolution to 35. How far all 35 are really committed to the support of the Bill is not known.

Resolutions of this type must be introduced on an individual basis in the House, and 26 such resolutions were introduced during the last session.

Although the various resolutions differ as to details, such as the number and composition of membership, they all basically call for the establishment of a "Joint Committee on Foreign (or Central) Intelligence," the principle function of which would be to make continuing studies of the foreign intelligence activities of the Government. Under all of them, the Central Intelligence Agency is required to keep the Committee fully and currently informed with respect to its activities, and all matters in the Senate or House relating primarily to the Agency or its activities are to be referred to the Joint Committee. All of the resolutions authorize the Joint Committee to hold hearings, subpoena witnesses and documents, etc., and all of them empower the Committee to appoint such staff as it may determine to be necessary in order to carry out its functions.

A list of Senate and House resolutions on a Joint Committee, together with names of sponsors and date of introduction, is attached hereto as Annex 4.

II.

The Present Congressional Review Mechanism.

Since the creation of the Central Intelligence Agency in 1947 Congress has devised various methods for maintaining its relations with the Agency and for securing the information necessary to provide the basis for necessary authorizations and appropriations. These methods also provide a means of keeping the appropriate Committees quite completely informed as to the activities of CIA and its general effectiveness and efficiency. During the initial period of the Agency's existence the Congress was inclined to leave it alone. As the work of the CIA increased in scope and magnitude, however, and attracted increased attention both at home and abroad, Congressional interest increased. Hearings before the House Appropriations Committee, for example, were general in nature during the early years of the Agency's existence, but became more extensive and more detailed, particularly in the 84th Congress. The House scrutiny of the CIA budget has never involved pressures to reveal information which the Director wished to withhold, and so far there have been no security breaches attributable to any Congressional hearing on CIA matters. Although the Senate Appropriations Committee did not conduct as extensive or detailed hearings as the House Committee on the CIA budget, it has also reviewed the work of the Agency in recent sessions.

A similar pattern has developed with respect to the authorizing committees, which have been the Committees on Armed Services of the House and the Senate. During the 84th Congress, the Senate Armed Services Committee formalized its interest in the CIA through the following "Armed Services Committee Standing Orders":

11. Within 30 days after the adoption of these standing orders there shall be appointed by the chairman, to serve for the duration of the Congress, the following subcommittees, each subcommittee to consist of not less than two members at least one of whom shall be from the minority party. The duties of each subcommittee shall be as indicated herein. A member of the professional staff of the committee shall be assigned by the chairman to assist each

subcommittee, such staff assignments to be in addition to the staff member's other duties.

(b) Subcommittee on Central Intelligence Agency:

Hold such meetings and briefings as are necessary to maintain familiarity with the operation of section 102 of the National Security Act of 1947 as amended and the Central Intelligence Agency Act of 1949, and the policies and programs being carried out pursuant to those authorities, or being planned.

Provide a channel for liaison between the Central Intelligence Agency and the Senate Committee on Armed Services.

On January 28, 1955, Senators Russell (Chairman), Byrd, Johnson of Texas, Bridges, and Saltonstall were designated as members of this subcommittee. On March 4, 1955 a Secret briefing was held for the Committee, and two of its members, Senators Byrd and Saltonstall, were given specific CIA briefings in the field during recent trips abroad, as was General Verne Mudge, a staff member of the Armed Services Committee. Chairman Vinson of the House Armed Services Committee has advised us that he proposes to establish promptly a subcommittee similar to the Senate subcommittee.

Apart from the formal relations with Armed Services and Appropriations Committees, CIA has had some dealings with other committees in the House and the Senate such as Government Operations, Post Office & Civil Service, Judiciary, Foreign Relations, and the Joint Committees on Atomic Energy and on Printing.

III.

The Desirability of Additional Congressional Review of Non-Intelligence Activities.

A basic fact which must be borne in mind in analyzing this problem is that the establishment of a separate Congressional Committee whose only functions relate to the conduct of foreign intelligence activities would inevitably mean a closer scrutiny by a much broader membership of the Congress of the activities of the

United States Government in this field. Although most of the resolutions introduced have referred to "intelligence activities," which might be construed as not relating to operational activities, they all further provide that the Director of Central Intelligence is to report to the Committee on "all" activities of CIA, which makes it likely that any aspect of CIA or related Government operations in this field would also come under scrutiny by the Committee. At the present time, intelligence activities are described to the Congress through formal or informal subcommittees of existing committees, the members of which and the staffs of which have additional duties to perform. If the membership, and particularly the staff, of a new Congressional committee has no functions other than those relating to foreign intelligence, it is inevitable that the demands upon the Executive Branch for information, operational and otherwise, will be considerably greater than under present arrangements. The actual needs of CIA for substantive legislation are neither frequent nor extensive enough to occupy a major amount of the time of a Congressional committee or staff, and requests for funds will still have to be reviewed by the Appropriations Committees themselves. The following analysis as to specific problems assumes the foregoing facts.

a. Security. It is inevitable that a more intensive and broader Congressional scrutiny of CIA would rapidly raise serious security considerations and tend to impair the effectiveness of operations. Countless examples could be given of instances where the unauthorized disclosure of information as to a planned operational activity (e.g. the overthrow of a foreign government and the many lesser activities) could have disastrous consequences. Witting representatives of the Executive Branch are frequently offended, morally or otherwise, by certain proposed operational activities, and their remarks or views are heard within the secure confines of the Executive Branch. No such security strictures, however, could be imposed upon members of Congress. Although individual members of Congress will vigorously and truthfully deny that their security is any less complete than that of the Executive Branch, experience has indicated that this cannot be relied upon across the board, and leaks are inevitable.

United States is concerned, an intensive Congressional scrutiny of CIA is likely to impair intelligence relations with friendly foreign governments. Such relations, particularly with governments not formally allied with the United States, depend on the understanding that they will be held on the basis of absolute minimum access. Apart from the increased danger of leaks from more people knowing, creation of the proposed Committee, with staff and other facilities, would in itself tend to create doubt abroad as to the security of United States' handling of material handed over by foreign sources, and would result in the inevitable stoppage of flow of certain sensitive information which by its very nature, is most important to the United States. In this respect, intelligence relationships are more sensitive than any foreign relationship of the Atomic Energy Commission and than almost any foreign relationship of the Department of State.

The staff for the Committee would present many problems. To do its job the staff would undoubtedly attempt a thorough and continuous review of all Agency activities and thus become involved in the most sensitive of clandestine activities. This is particularly true inasmuch as CIA has little legislation to concern a staff.

b. Relationship Between the Executive and the Congress. The creation of a Joint Committee would raise fundamental problems as to the basic constitutional relationship between the President and the Congress, particularly with regard to the President's function of the conduct of foreign affairs. Although it is perhaps not generally understood in the Congress, CIA does not set policy, but carries on its activities only in accordance with policy set by the Department of State, the National Security Council, and, ultimately, the President. Hence, if operational activities under NSC 5412 become included in the Joint Committee's charter, as is likely, the Committee would feel it necessary to know the policy basis for each activity, and the State Department, and in certain cases the White House itself, would become immediately and directly involved, with the resultant danger of incursion into the foreign policy prerogatives of the Executive.

It does not follow that the operational activities of CIA, as distinct from the intelligence activities, should be regarded as sacrosanct, and not subject to review or criticism. The proper location for such a review, however, is within the Executive Branch itself. The Director reports on such Agency activities semi-annually to the National Security Council, consults frequently with the Operations Coordinating Board, and obtains policy guidance from State, Defense and other interested policy agencies.

c. The Jurisdictional Problem. The foreign intelligence activities of the Government involve many departments and agencies in addition to CIA. In the IAC alone there are represented the Department of State, the three Services and the Joint Chiefs of Staff, the AEC, the FBI, and on occasion, representatives of other agencies. This would mean that a Joint Congressional Committee on Intelligence would have to deal with activities of many agencies which presently fall within the jurisdiction of other Congressional committees, such as Armed Services, Foreign Relations and Foreign Affairs, Atomic Energy, Judiciary, etc.

The argument is often made that the success of the Joint Committee on Atomic Energy is proof that a Joint Committee on Intelligence would be similarly successful. This argument, however, fails to take into account that in the case of Atomic Energy, at least in the field of operations which are the major Congressional concern, the Committee only deals with one agency of the Government. Moreover, they deal with an agency which has a wide variety of responsibilities requiring extensive legislation in many fields of activity, such as pre-emptive relationships in patents and property, civil defense, control of materials, manufacture of weapons, etc. Atomic Energy bills deal with construction of industrial facilities, housing facilities, taxation, research and development, and a number of activities which are of interest to large segments of the American people. No such factors relate to the conduct of foreign intelligence.

Even if a Joint Committee were to make a bona fide attempt to confine its attention to CIA's intelligence activities, it would address itself to only about one-eighth of the foreign intelligence activities of the Government in terms of personnel or budgetary problems. Moreover, the activities of CIA cannot be understood in isolation because its role is to contribute by its "services of common concern" to the work of each of the other intelligence services of the Government, and to draw together the work of all of them in the production of national intelligence. Thus, a thorough understanding of the intelligence structure of the Government as a whole would be essential to any effective review of the CIA intelligence role.

d. The Membership Problem. Although it obviously cannot be used as a formal argument, the problem of the membership of a Joint Committee on Foreign Intelligence is a very real one

insofar as the Executive Branch is concerned. Senator Smith's resolution and other resolutions similar to his make no provision as to the source of membership of such a Committee. It simply provides that there will be nine members from each House, with the usual relationship between majority and minority parties. Under such a bill, seniority rules would probably apply, which would be a much more inflexible arrangement than the subcommittee arrangement which has now been established. Senator Mansfield's resolution deals with this problem to some degree by providing that the total membership of the Committee would be 12, 6 from each House, and by further providing that 3 members would be selected from each of the Armed Services and Appropriations Committees. Although this appears to lean in the direction of a more manageable solution to this problem, it is still much more inflexible than the present arrangement. It is perhaps unnecessary to point out that certain current members, reasonably senior, of Armed Services and Appropriations Committees, are outspoken opponents of some of the kinds of work done by CIA.

IV.

Recommendations for Administration Position.

In the light of the foregoing, it is recommended that the Administration take the following position regarding legislation for a Joint Committee on Foreign Intelligence (or on Central Intelligence):

- a. That such a Committee would provide an unnecessary supplement to the review now being conducted by existing committees of the Congress;
- b. That the present mechanisms of existing committees are adequate to carry on any further review which the Congress and the Executive may determine to be desirable in connection with foreign intelligence activities;
- c. That such a Committee would create definite jurisdictional problems, due to the large and diverse number of Government agencies with responsibilities in the intelligence field, all of whom are now responsible to existing Congressional committees; and

d. That the creation of such a Committee could raise substantial security problems and hamper the conduct of foreign relations by the Executive.

Allen W. Dulles
Director

CONCUR:

[Redacted Signature]

Deputy Director of Central Intelligence

3 Jan 56
Date

[Redacted Signature]

Inspector General

30 Dec. 1955
Date

IG:NSP:blc;fm (29 Dec 55)

Distribution:

- Orig & 1 - Addressee
- 2 - Signer ✓
- 2 - Legislative Counsel

Enclosures:

- Annex 1 - S. 2614
- Annex 2 - Ltr to Senator George from the Director dated 18 Aug 55.
- Annex 3 - S. Con. Res. 2
- Annex 4 - List of Senate and House Resolutions on Joint Committee

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b. Relationship Between the Executive and the Congress. The creation of a Joint Committee would raise fundamental problems as to the basic constitutional relationship between the President and the Congress, particularly with regard to the President's function of the conduct of foreign affairs. Although it is perhaps not generally understood in the Congress, CIA does not set policy, but carries on its activities only in accordance with policy set by the Department of State, the National Security Council, and, ultimately, the President. Hence, if operational activities become included in the Joint Committee's charter, as is likely, the Committee would feel it necessary to know the policy basis for each activity, and the State Department, and in certain cases the White House itself, would become immediately and directly involved, with the resultant danger of incursion into the foreign policy prerogatives of the Executive.

It does not follow that the operational activities of CIA should be regarded as sacrosanct, and not subject to review or criticism. The proper location for such a review, however, is within the Executive Branch itself. The Director reports on the Agency's activities ^{quarterly} to the National Security Council, ^{and at consults} ~~and at~~ more frequent intervals to the Operations Coordinating Board, ^{and} in addition to routine liaison with State, Defense and other interested agencies. ~~Moreover, the President has in the past reportedly designated outside groups, most recently that headed by General Doolittle, to look into the Agency's operational activities in detail.~~

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| MEMORANDUM FOR: MR. DULLES | | NOTED BY 27 July 55 |
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